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Note verbale dated 26 March 2008 from the Permanent Mission of Brunei Darussalam to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Brunei Darussalam to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006), and has the honour to enclose herewith a copy of the report of Brunei Darussalam on the implementation of Security Council resolution 1718 (2006) (see annex).

Annex to the note verbale dated 26 March 2008 from the Permanent Mission of Brunei Darussalam to the United Nations addressed to the Chairman of the Committee

BRUNEI DARUSSALAM'S REPORT ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1718 (2006)

1. Brunei Darussalam is committed to ensuring appropriate implementation of the resolutions adopted by the UN Security Council, including resolution 1718. With regards to nuclear weapons, Brunei Darussalam adheres to the South East Asia Nuclear Weapons Free Zone Treaty (SEANWFZ), which prohibits the participants from developing, manufacturing, acquiring, possessing, stationing, transporting by any means, testing or using nuclear weapons in the participant's sovereign territory, continental shelves and Exclusive Economic Zone (EEZ). This also includes related important international treaties that aimed at curbing the proliferation of Weapons of Mass Destruction (WMD) namely: -

- *Treaty of the Non-Proliferation of Nuclear Weapons (NPT);*
- *Convention on the Prohibition of the Development, Production, Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC);*
- *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC);*
- *Comprehensive Nuclear-Test-Ban Treaty (CTBT).*

2. Brunei Darussalam has various legislative measures that enable the country to meet its obligations under resolution 1718. At the same time, it has also taken appropriate steps towards the implementation of the aforementioned treaties and conventions as well as in documents S/2006/814, S/2006/815 and S/2006/816. Those legislations in place are as follows:-

Arms and Explosives Act 2002

3. The Arms and Explosives Act (Chapter 58) regulates the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives.

4. The Arms and Explosives Rules, which was introduced by virtue of section 3 of the Arms and Explosives Act (Chapter 58), provides for the rules regulating the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives.

5. Rule 2 of the Arms and Explosives Rules prohibits possession, import or export of any gun or arm except under a license issued by the Licensing Officer. The Licensing Officer for the purpose under these Rules is the Commissioner of Police.

Any application for the importation of guns or arms must give a description of the arms, from whom it is obtained and to whom it is to be consigned (Rule 7). For exportation of guns or arms or naval, military or air force stores from Brunei Darussalam, certain particulars must be given to the Licensing Officer prior to the issuance of license, including the nature and calibre of such guns or arms; the description and quantity; the country of destination; the name of the ship or aircraft flight number in which it is intended to export; and the probable date of departure of such ship or aircraft (Rule 8). For landing of any guns or arms for the purposes of transshipment on board of any vessel, vehicle or aircraft arriving in Brunei Darussalam must be with a Permit issued by the Licensing Officer (Rule 9).

6. Rules 10 and 11 prohibits the manufacture etc of guns or arms and the manufacture, possess etc of explosives except with a license issued by the Licensing Officer. Rule 17 provides the general penalty for the breach of any of the rules, other than rule 9, 15 or 16, with imprisonment not less than 5 years and not more than 15 years and with whipping not less than 3 strokes and but not more than 12 strokes.

Internal Security Act (Chapter 133)

7. Section 40 – Any person, in any *'security area'* who carries or has in his possession or under his control any firearm / ammunition / explosive without lawful authority shall be guilty of an offence, which carries the death penalty.

8. Section 41 – Any person who in any *'security area'* consorts with or is found in the company of another person who is carrying or has in his possession or under his control any firearm, ammunition or explosive in contravention of the provisions of section 40, in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence, which carries the death penalty or imprisonment for life or imprisonment for 10 years.

9. Section 42 – Any person who whether within or outside a security area demands, collects, receives, provides, whether directly or indirectly, any supplies (includes firearm, ammunition and explosive) or is in possession of any supplies from any other person in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence, which carries the penalty of life imprisonment.

Public Order Act (Chapter 148)

10. Section 28 – Any person, in any *'special area'* who carries or has in his possession or under his control any firearm / ammunition / explosive without lawful authority shall be guilty of an offence, which carries the death penalty.

Anti Terrorism (Financial and Other Measures) Order 2002

11. The Anti Terrorism (Financial and Other Measures) Order 2002 criminalizes any form of financial assistance to terrorists by any persons. It also enables the freezing of financial assets or economic resources of persons who commit, or attempt to commit terrorist attacks or participate in or facilitate the commission of terrorists' acts. Penalty for offences under the Order is imprisonment for a term not exceeding five years or a fine not exceeding BND$100,000 or both.

12. Section 12 of the Anti-Terrorism (Financial and Other Measures) Order 2002 provides that the Minister of Finance may issue directions to any financial institutions in Brunei Darussalam based on any decision of the Security Council of the United Nations relating to terrorism. Such directions may include a direction on the freezing of assets of any persons specified pursuant to the decision of UN Security Council, a direction for all financial institutions to perform thorough checking on the Consolidated List and report the findings to the Ministry, and a direction for financial institutions to reports to the Minister of Finance on any identified persons or assets within a specified period.

Customs Order 2006

13. The Customs Order 2006 provides a comprehensive law on matters relating to customs including the importation and exportation of goods by sea, land and air, power to search and seizure of goods, and arrest, and the penalties for offences in contravention with the provisions under the Order.

14. Part IV of Customs Order specifically provides for matters on importation and exportation. Section 24 of Customs Order prohibits landing of imported goods by sea (a) except at a legal landing place or sufferance wharf; (b) until permission to land has been received from the proper officer of customs; and (c) on days and times as may be prescribed or on other days and times as may be granted by the proper officer of Customs. It further prohibits such imported goods to be transshipped after having been landed or unshipped; or to be removed into any other boat or craft previously to their being landed after such goods have been put into any boat or craft to be landed. Section 25 and 29 provide that the landing of imported goods, and exportation of goods, by air, must be at and from a customs airport respectively.

15. Section 31 of Customs Order provides that the Minister of Finance may, by order, provide for (a) the prohibition of the importation into, or the exportation from Brunei Darussalam, either absolutely or conditionally, or from or to any specified country or place outside Brunei Darussalam, or the removal from one place to another place in Brunei Darussalam of any goods or class of goods; (b) the prohibition of importation into, or the exportation from Brunei Darussalam, or removal from one place to another place in Brunei Darussalam of any goods or class of goods, except at specified ports or places. It further provides that if any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under this section, such question shall be decided by the Controller.

16. Section 115 of Customs Order provides that an officer of customs may, in any place either on land or in territorial waters, seize all goods in respect of which there has been or there is a reasonable cause to suspect that an offence has been committed against this Order or any breach of provision of the Order, or of any restriction or condition imposed on any licence or permit which has been granted, together with any receptacle, package, conveyance, vessel not exceeding 200 tons nett registered tonnage, or aircraft, in which the same may have been found or which has been used in connection with such offence or breach, and any book or document which may reasonably be believed to have a bearing on the case.

17. Section 118 of Customs Order provides that any officer of customs may arrest without warrant:-

(a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence against the Order;
(b) any person whom he may reasonably suspect to have in his possession any uncustomed or prohibited goods or any goods liable to seizure under the Order;
(c) any person against whom a reasonable suspicion exists that he has been guilty of an offence against the Order.

18. It further provides that person so arrested may be searched or caused to be searched, provided that no female to be searched except by another female with strict regard to decency.

19. Under the Customs (Prohibition and Restriction on Imports and Exports) Order, Section 3 prohibits the importation of radioactive materials into Brunei Darussalam, except and in accordance with the terms and conditions of a license granted by and on behalf of the Controller.

Immigration Act

20. The Immigration Act (Chapter 17) provides the Controller of Immigration the power to prohibit the entry of certain classes of persons into Brunei Darussalam, such as any person who, in consequence of information received from any source deemed by the Controller to be reliable, or from any government, through official or diplomatic channels, is deemed by the Controller to be an undesirable immigrant.

21. The Immigration and National Registration Department, with the recommendation from other Government Agencies, identifies any foreign party, who has been confirmed to be involved in such acts to be put on a list of foreign nationals prohibited from entering the territory of Brunei Darussalam.

22. Section 9 of Immigration Act provides that the Minister of Home Affairs with the approval of His Majesty, may, by order where he deems expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Brunei Darussalam to:-

(a) prohibit the entry of any person or class of person into Brunei Darussalam for either a stated period or permanently;

(b) limit the number of persons of any class who may enter Brunei Darussalam within any period specified in the order; and

(c) limit the period during which any person or class of persons entering or re-entering Brunei Darussalam may remain therein:-

Provided always that no order made under the provisions of this paragraph, except an order made in the interests of public security, shall apply to any person outside Brunei Darussalam at the time when such order is made and who is in possession of a valid residence or Re-entry Permit lawfully issued to him.

23. Section 28 of Immigration Act provides that any person who arrives in Brunei Darussalam from any place outside Brunei Darussalam or who is about to leave Brunei Darussalam by sea, land or air for any place outside Brunei Darussalam, shall fully and truthfully answer all questions and enquiries out to him by a Senior Immigration Officer tending directly or indirectly to establish his identity, nationality or occupation or bearing on any of the restrictions contained in this Act or in any regulations made thereunder or any absolute or conditional liability on his part to any military, naval or air force service under any state or country whatsoever, and shall disclose and produce to any such officer on demand all documents in his possession relating to such matters.

24. Any such person shall be guilty of an offence if he:-

(a) refuses to answer any question or enquiry put to him under this section;

(b) knowingly gives any false or misleading answer to any such question or enquiry or knowingly makes a false or misleading statement to a Senior Immigration Officer;

(c) refuses or fails to produce any document in his possession when required so to do under this section; or

(d) knowingly produces any false or misleading document.

Biological Weapons Act 1984

25. The Biological Weapons Act 1984 bans the development, production, stockpiling, acquisition and retention of microbial or other biological agents or toxins. The penalty for any person contravening this Act shall be imprisonment for life.

Merchant Shipping Order 2002

26. Section 43 (1) provides that the Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein) and cancel its certificate of registry for any contravention of any of the provisions of this Order or any international convention applicable to Brunei Darussalam.

27. The Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein) and cancel its certificate of registry if the Registrar is satisfied that it is not in the public interest for the ship to continue to be registered as a Brunei Darussalam ship.

28. Where the registry of a ship is closed under this section, the registered owner of the ship at the time of the closure shall, within 30 days of the closure, deliver up the certificate of registry to the Registrar for cancellation and if he fails to deliver up the certificate of registry within the specified period, he shall be guilty of an offence and liable on conviction to a fine not exceeding BND$10,000.

Other Related Measures

29. Brunei Darussalam has also fully implemented the International Civil Aviation Organisation (ICAO) Standards and Recommended Practices (SARPs), regulations set by the International Air Transport Associations (IATA), International Maritime Organisations (IMO), International Maritime Dangerous Goods Code (IMDG), IMO International Ships and Ports Security (ISPS) Code. Under International Dangerous Goods category classified as 1 (Explosives); 2 (Gases); 3

(Flammable Liquids) and 7 (Radioactive Material) require permit approval from the relevant authority at the Ministry of Health, Royal Brunei Police Force and the Royal Customs and Excise Department before any of the above dangerous goods could be released, imported or exported. Brunei Darussalam is also working towards the implementation of the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources.

30. Brunei Darussalam does not have the expertise to provide specialised technical training, advice, services or assistance which would contribute to the concerned state's proliferation of nuclear activities and development of nuclear weapon delivery systems.